

**Motion to Stay Denied; Petition for Writ of Mandamus Denied and Memorandum Opinion filed July 9, 2020.**



**In The  
Fourteenth Court of Appeals**

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**NO. 14-20-00458-CV**

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**IN RE ANGELA BRONCHTAINÉ, Relator**

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**ORIGINAL PROCEEDING  
WRIT OF MANDAMUS  
312th District Court  
Harris County, Texas  
Trial Court Cause No. 2018-46637**

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**MEMORANDUM OPINION**

On Thursday, June 25, 2020, relator, Angela Brounchtaine, filed a petition for writ of mandamus in this Court. *See* Tex. Gov't Code Ann. § 22.221; *see also* Tex. R. App. P. 52. In her petition, relator asks this Court to compel the Honorable Clinton E. Wells, Jr., presiding judge of the 312th District Court of Harris County, to vacate orders he issued on April 22, 2020 and April 27, 2020.

In her petition, relator raises three separate grounds for issuance of a writ of mandamus. First, she argues the trial court abused its discretion in determining her emergency motion to modify temporary orders was not an emergency. Second, she contends the trial court abused its discretion by granting the real-party-in-interest “ex-parte” relief by ruling on his motion for special exceptions without a hearing. Third, she complains the trial court abused its discretion in granting real-party-in-interest attorney’s fees that were not supported by affidavit.

### **I. Mandamus Standard of Review**

With certain exceptions, to obtain mandamus relief a relator must show both that the trial court clearly abused its discretion and that relator has no adequate remedy by appeal. *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding).

### **II. Analysis**

As to realtor’s first basis for issuance of a writ of mandamus, we do not agree the trial court abused its discretion in determining that her motion was not an emergency. In the trial court’s March 12, 2020 notice regarding emergency scheduling procedures, it defines an emergency as an IMMEDIATE risk of loss of property or harm to a child. Relator averred neither circumstance in the affidavit supporting her emergency motion. Accordingly, we deny the petition for writ of mandamus on realtor’s first ground.

As to relator’s second and third grounds for issuance of a writ of mandamus, relator has adequate remedies by appeal and is, therefore, not entitled to mandamus relief. *See Ozcelebi v. Chowdary*, No. 13-16-00346-CV, 2018 WL 4354732 at \*15

(Tex. App.—Corpus Christi-Edinburgh Sept. 13, 2018, pet. denied) (mem. op.) (“A special exceptions issue is generally not the kind of issue that eludes appellate review such that it must be corrected by mandamus to prevent injustice.”); *In re Andrea*, No. 14-18-00780-CV, 2018 WL 4339847 at \*1 (Tex. App.—Houston [14th Dist.] Sept. 11, 2018, no pet.) (mem. op.) (orig. proceeding) (“When the trial court awards interim attorney’s fees, generally there is an adequate remedy at law, so mandamus will not lie to alter the trial court’s award of interim attorney’s fees.”).

### **III. Conclusion**

Relator has not shown that she is entitled to mandamus relief. We therefore deny relator’s petition for writ of mandamus and related emergency motion to stay trial court proceedings.

PER CURIAM

Panel consists of Justices Christopher, Jewell, and Hassan.